

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

JUKEN WASHINGTON GORDON,

Plaintiff,

-v.-

9:06-CV-0450
(LEK)(DEP)

HARRELL WATTS, Administrator; T.R. CRAIG,
Warden; E. MILLER, Med. Supervisor; D. SCOTT DODRILL,
Regional Coordinator; and UNITED STATES OF AMERICA,

Defendants.

APPEARANCES:

JUKEN WASHINGTON GORDON
Plaintiff, *pro se*

LAWRENCE E. KAHN, U.S. District Judge

DECISION and ORDER

The Clerk has sent to the Court an in forma pauperis application, together with a complaint alleging a claim under *Bivens v. Six Unknown Named Agents of the Federal Bureau of Narcotics*, 403 U.S. 388 (1971) from Juken Washington Gordon (“Plaintiff” or “Gordon”), who is currently incarcerated at the Federal Correctional Institution at Raybrook, New York. Dkt. Nos. 1-4. Plaintiff has not paid the filing fee required for this action.

In his *pro se* complaint, Plaintiff alleges that his right to file grievances was impeded and/or denied by Defendants and he was denied medical care in deliberate indifference to his serious medical needs. For a more complete statement of Plaintiff’s claims, reference is made to the entire Complaint.

Plaintiff names the United States of America as a defendant. It is clear, however, that a *Bivens* action may not be maintained against the United States. *Ige v. United States Attorney’s Office*, No. 96-2390, 1996 U.S. App. LEXIS 29136, at *4-5 (2d Cir. Nov. 8, 1996). Thus, the United States of America is dismissed as a defendant.

As to Plaintiff's *in forma pauperis* application, after reviewing the entire file, the Court finds that the Plaintiff may properly proceed with this matter *in forma pauperis*.

WHEREFORE, it is hereby

ORDERED, that the United States of America is **DISMISSED** as a defendant, and it is further

ORDERED, that Plaintiff's *in forma pauperis* application is **GRANTED**.¹ The Clerk shall complete waiver of service of process forms for each defendant and provide same to the United States Marshal, who shall serve such forms, together with a copy of Plaintiff's complaint, on each of the individual defendants named herein. The Clerk shall also issue summonses and forward them, along with copies of the Complaint, to the United States Marshal, for service on both the United States Attorney for the Northern District of New York ("U.S. Attorney's Office") and the Attorney General of the United States in Washington, D.C. in accordance with the Federal Rules of Civil Procedure. The Clerk shall also forward a copy of this Order to the U.S. Attorney's Office, and it is further

ORDERED, that the Clerk provide the Warden of the facility, designated by Plaintiff as his current location, with a copy of Plaintiff's authorization form, and notify such official that this action has been filed and that Plaintiff is required to pay the entire statutory filing fee of \$250.00 pursuant to 28 U.S.C. § 1915,² and it is further

¹ Plaintiff should note that although the application to proceed *in forma pauperis* has been granted, Plaintiff will still be required to pay fees that he may incur in this action, including copying and/or witness fees.

² This action was filed prior to the April 9, 2006 increase in filing fees. Thus, the applicable filing fee is \$250.00. *See Dory v. Ryan*, 999 F.2d 679, 682 (2d Cir. 1993) (a complaint filed by an inmate is deemed "filed" when it is delivered to prison officials).

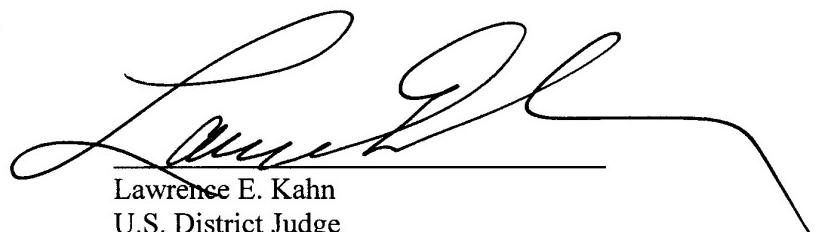
ORDERED, that the Clerk provide a copy of Plaintiff's authorization form to the Financial Deputy of the Clerk's Office, and it is further

ORDERED, that a response to Plaintiff's complaint be filed by Defendants or their counsel as provided for in Rule 12 of the Federal Rules of Civil Procedure, and it is further

ORDERED, that all pleadings, motions and other documents relating to this action be filed with the Clerk of the United States District Court, Northern District of New York, 7th Floor, Federal Building, 100 S. Clinton St., Syracuse, New York 13261-7367. Any paper sent by a party to the Court or the Clerk must be accompanied by a certificate showing that a true copy of it was mailed to all opposing parties or their counsel. Any document received by the Clerk or the Court which does not include a certificate of service showing that a copy was served upon all opposing parties or their attorneys will be returned, without processing. Plaintiff must comply with any requests by the Clerk's Office for any documents that are necessary to maintain this action. All parties must comply with Local Rule 7.1 of the Northern District of New York in filing motions, which must be returnable before the assigned Magistrate Judge with proper allowance for notice as required by the Rules. Plaintiff is also required to promptly notify the Clerk's Office and all parties or their counsel of any change in plaintiff's address; his failure to do so will result in the dismissal of this action. All motions will be decided on submitted papers without oral argument unless otherwise ordered by the Court, and it is further

ORDERED, that the Clerk serve a copy of this Order on the plaintiff by regular mail.

DATED: June 29, 2006
Albany, New York



Lawrence E. Kahn
U.S. District Judge